

REMARKS

The Ex Parte Quayle Action dated April 2, 2010 indicates the application was in condition for allowance from appeal, pending address of the following, remaining formalities: the Specification stands objected to with regard to the absence of section header(s), and claims 1-20 stand objected to, but would be deemed allowable if independent claims 1 and 14 were rewritten to include the limitations of claims 15 and/or 16.

Regarding the objections to the Specification, Applicant respectfully declines to add section headings. Such section headings are not statutorily required for filing a non-provisional patent application under 35 U.S.C. § 111(a). The guidelines at 37 CFR 1.51(d) are only suggestions for Applicant's use and are not mandatory. When Rule 77 was amended in 1996, Bruce A. Lehman, Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, stated in the Official Gazette: "Section 1.77 is permissive rather than mandatory. ... 1.77 merely expresses the Office's preference for the arrangement of the application elements. The Office may advise an applicant that the application does not comply with the format set forth in 1.77, and suggest this format for the applicant's consideration; however, the Office will not require any application to comply with the format set forth in 1.77." *See* 61 FR 42790, Aug. 19, 1996. Thus, Applicant respectfully declines to add section headings.

Applicant respectfully maintains its traversal of the objection to claims 1 and 14 because the Examiner does not appear to have presented any proper basis for the objection. Applicant respectfully submits that claims 1 and 14 would be clear to the skilled artisan. The Examiner has not presented any basis for requiring that additional limitations be added with regard to how or what in the configuration/arrangement makes each of the combined distances equal. Applicant notes that the breadth of a claim is not to be equated with indefiniteness. *See, e.g.*, M.P.E.P. § 2173.04. Thus, Applicant requests that the objection to claims 1 and 14 be removed.

Further, as an *Ex Parte Quayle* action, prosecution on the merits is closed, and Applicant fails to appreciate the form and timing of this objection. As explained in M.P.E.P. § 714.14, "after all claims in an application have been allowed the prosecution of the application on the merits is closed even though there may be outstanding formal objections which preclude fully closing the prosecution."

On the basis of the above amendments and remarks, it is respectfully submitted that the application remains to be in condition for allowance. Accordingly, reconsideration of this application and its allowance are requested.

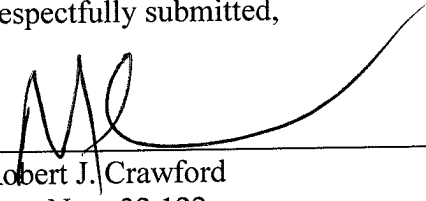
Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at 651/686-6633.

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Respectfully submitted,

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